

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA

3 THIS DOCUMENT APPLIES TO
4 PLAINTIFF(S): Diana Jarvais, Individually and as
5 Personal Representative of the Estate of John Jarvais, deceased

6 Plaintiffs

7 v.

8 ☐ AMYLIN PHARMACEUTICALS, LLC,
9 ☐ ELI LILLY AND COMPANY,
10 ☒ MERCK SHARP & DOHME CORP.,
11 ☐ NOVO NORDISK INC.,

12 (Check all the above that apply)

13 Defendants

Pertains To Civil Action No.:

In Re: Incretin-Based Therapies
Products Liability Litigation

MDL NO. 2452

**SHORT FORM COMPLAINT
FOR DAMAGES**

Case No.: 13md2452 AJB(MDD)

14 **SHORT FORM COMPLAINT FOR DAMAGES**

15 COMES NOW the Plaintiff(s) named herein, and for Complaint against the
16 Defendants named herein, incorporates and fully adopts the Master Form Complaint
17 (the "Master Complaint") in MDL No. 2452 by reference. Plaintiff(s) further shows
18 the Court as follows:

19 **JURISDICTION AND VENUE**

20 1. Jurisdiction in this Complaint is based on:

21 ☒ Diversity of Citizenship

22 ☐ Other (As set forth below, the basis of any additional ground for
23 jurisdiction must be pleaded in sufficient detail as required by the
24 applicable Federal Rules of Civil Procedure):

25 _____
26 2. District Court and Division in which you might have otherwise filed
27 absent the direct filing order entered by this Court: _____

28 United States District Court, Southern District of California

1 3. Plaintiff(s) further adopts the allegations contained in the following
2 paragraphs of the Jurisdiction and Venue section of the Master Complaint:

3 ☒ Paragraph 10;

4 ☒ Paragraph 11;

5 ☐ Paragraph 12;

6 ☒ Paragraph 13;

7 ☒ Paragraph 14;

8 ☒ Paragraph 15; and/or

9 ☐ Other allegations as to jurisdiction and venue (Plead in sufficient detail
10 in numbered paragraphs (numbered to begin with 3(a)) as required by the
11 applicable Federal Rules of Civil Procedure): _____
12 _____.

13 PLAINTIFF/INJURED PARTY INFORMATION

14 4. Injured/Deceased Party's Name: John Jarvais
15 (the "Injured Party").

16 5. Any injury (or injuries) suffered by the Injured Party in addition to
17 those injuries related to the Injured Party's Pancreatic Cancer, which is alleged to
18 have been caused by the drug(s) ingested as set forth below (put "None" if
19 applicable): None.

20 6. Injured Party's spouse or other party making loss of consortium claim:
21 Diana Jarvais.

22 7. Other Plaintiff(s) and capacity, if Injured Party is deceased or
23 otherwise incapacitated (i.e., administrator, executor, guardian, representative,
24 conservator, successor in interest): Diana Jarvais- Personal Representative.

25 8. City(ies) and State(s) of residence of Injured Party at time of ingestion
26 of the Drug(s): Kaukauna, WI.

27 9. City and State of residence of Injured Party at time of pancreatic
28 cancer diagnosis (if different from above): N/A.

1 10. City and State of residence of Injured Party at time of diagnosis of
2 other Injury(ies) alleged in Paragraph 5 (if different from above): N/A.

3 11. If applicable, City and State of current residence of Injured Party (if
4 different from above): N/A.

5 12. If applicable, City and State of residence of Injured Party at time of
6 death (if different from above): N/A.

7 13. If applicable, City and State of current residence of each Plaintiff,
8 including any Consortium and or other Plaintiff(s) (i.e., administrator, executor,
9 guardian, representative, conservator, successor in interest): Green Bay, WI
10 _____.

11 14. Check box(es) of product(s) (the "Drugs") for which you are making
12 claims in this Complaint:

13 ☐ Byetta. Dates of use: _____.

14 ☒ Januvia. Dates of use: approx. 2/16/2009 - 12/2010.

15 ☐ Janumet. Dates of use: _____.

16 ☐ Victoza. Dates of use: _____.

17 15. Date of pancreatic cancer diagnosis: approx. 9/6/2011.

18 16. If applicable, date of other injuries alleged in Paragraph 5: N/A
19 _____.

20 17. If applicable, date of death: 10/4/2012.

21 DEFENDANTS NAMED HEREIN

22 (Check Defendants against whom Complaint is made)

23 ☐ Amylin Pharmaceuticals, LLC

24 ☐ Eli Lilly and Company

25 ☒ Merck Sharp & Dohme Corp.

26 ☐ Novo Nordisk Inc.

27 CAUSES OF ACTION

28 (Counts in the Master Complaint brought by Plaintiff(s))

1
2 ☒ Count I – Strict Liability – Failure to Warn

3 ☒ Count II – Strict Liability – Design Defect

4 ☒ Count III – Negligence

5 ☒ Count IV – Breach of Implied Warranty

6 ☒ Count V – Breach of Express Warranty

7 ☒ Count VI – Punitive Damages

8 ☒ Count VII – Loss of Consortium

9 ☒ Count VIII – Wrongful Death

10 ☒ Count IX – Survival Action

11 ☐ Other Count(s): _____

12 Plead factual and legal basis for any Other Count(s) in separately numbered
13 Paragraphs (beginning with Paragraph 18) that provide sufficient information
14 and detail to comply with the applicable Federal Rules of Civil Procedure.

15
16
17 PRAYER FOR RELIEF AND, AS APPLICABLE,

18 PRAYER FOR RELIEF FOR SURVIVAL AND WRONGFUL DEATH

19 WHEREFORE, Plaintiff(s) pray(s) for relief as set forth in the Master
20 Complaint filed in MDL No. 2452.

21 JURY DEMAND

22 Plaintiff(s) hereby ☒ demands ☐ **does not** demand a trial by jury on all
23 issues so triable.

24 Dated: September 8, 2015

25
26 RESPECTFULLY SUBMITTED,

27 By: /s/Shayna E. Sacks
28 Address and Bar Information

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